

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

ROBERT A. EATON,

Plaintiff,

vs.

MONTANA SILVERSMITHS,

Defendant.

Case No. CV 18-65-BLG-SPW

ORDER ON MOTION TO
STRIKE

Pursuant to Federal Rule of Civil Procedure 12(f), Robert A. Eaton moves to strike portions of Montana Silversmith's ("MTS") Motion for Summary Judgment. (Doc. 202 at 1). Specifically, Eaton moves to strike the portions of MTS's motion that focuses on the Title VII retaliation claim. (*Id.*). According to Eaton, because the Ninth Circuit reversed summary judgment on his retaliation claim, MTS cannot now move for summary judgment on the same claim. (Doc. 203 at 1–2). In response, MTS argues that Eaton's motion fails as a matter of law because only pleadings are subject to Rule 12(f) motions to strike, and a motion for summary judgment is not a pleading. (Doc. 204 at 2).

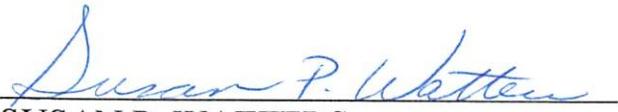
Whether to grant or deny a motion to strike is left to the district court's discretion. *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010). Rule 12(f) provides that "the court may order stricken from any pleading any

insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. *Sidney-Vinstein v. A.H. Robins Co.*, 697 F.3d 880, 885 (9th Cir. 1983). Rule 7(a) defines pleadings as: (1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer. Fed. R. Civ. P. 7(a).

Here, MTS's motion is not a pleading as defined in Rule 7(a). Therefore, Rule 12(f) does not provide Eaton with a basis for striking MTS's Motion for Summary Judgment.

It is HEREBY ORDERED that Eaton's Motion to Strike is DENIED.

DATED this 20th day of January, 2025.



SUSAN P. WATTERS
United States District Judge